

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	

**COMMENTS OF THE  
EASTERN RURAL TELECOM ASSOCIATION**

The Eastern Rural Telecom Association (“ERTA”) respectfully submits these comments in response to a Notice of Proposed Rulemaking (“NPRM”) <sup>1</sup> issued by the Commission on February 9, 2011 in the above captioned dockets.

ERTA is a trade association comprised of local exchange companies and support companies providing telecommunications services to rural customers in the Eastern half of America. ERTA companies are providers of local, long distance, wireless, cable television, and broadband Internet service. ERTA members have deep roots and are proud of the roles they play in

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<sup>1</sup> *Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13 (rel. Feb. 9, 2011) (NPRM).

providing service to rural America as small businesses in high cost areas, which have been ignored and overlooked by larger companies driven solely by profit.

Without ERTA members, many parts of rural America would not have access to either voice or broadband service. In addition ERTA members provide much needed jobs in their communities, and are among the largest employers in the areas they serve. The networks they deploy and continue to upgrade help drive further economic development in their communities.

ERTA members are passionate about connecting their rural areas with affordable high speed broadband service equal to those services enjoyed in suburban and urban America and the rest of the world. An inability to attain reasonable cost recovery certainty in economically less affluent rural areas will restrain the ability to borrow money<sup>2</sup> and hinder job creation and investment enjoyed in more urban areas.

ERTA members have three methods to recover the higher costs to serve consumers in rural America: direct charges to consumers, intercarrier compensation, and universal service support. The loss of intercarrier compensation due to phantom traffic, non-compensated VoIP traffic, and a consumer shift away from wireline long distance usage puts more pressure on contributions from consumers and the universal service fund for companies to fully recover the high service costs associated with these rural markets.

As reported by the Federal and State Staff for the Federal-State Joint Board on Universal Service, “[t]he high-cost support mechanisms enable areas with very high costs to recover some of these costs from the federal universal service fund, leaving a smaller remainder of the costs to be recovered through end-user rates or state universal service support mechanisms. In this

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<sup>2</sup> Rural Telephone Finance Cooperative (RTFC), WC Docket No. 10-90, GN Docket No. 09-51, and WC Docket No. 05-337 at 5-6, (filed August 10, 2010). (“Without stable assured sources of revenue for rural telecom service providers, lenders such as RTFC will be unable to justify lending for rural infrastructure modernization projects. Without debt capital available to RLECs, investment in network upgrades will be limited and inadequate to maintain the existing network, much less to upgrade the infrastructure...”)

manner, the high-cost support mechanisms are intended to hold down local rates...”<sup>3</sup> This intention was a recognition that availability without affordability will accomplish nothing. If this Commission accepts the basic premise of universal service to “hold down local rates” in a manner that enables residents of these communities to purchase basic communications services, then it will be critical to allow universal service funds to continue to be a viable cost recovery mechanism for Rural Local Exchange Carriers (“RLECs”).

With this existing framework and goal in mind, ERTA submits that the following points should be a key piece of any action taken by the Commission in this docket:

- RLECs should be allowed to recover the costs associated with their existing network in the manner prescribed when companies made their initial investment.
- Local Switching Support should neither be eliminated nor combined with High Cost Loop Support.
- Corporate operations expenses are necessary to the operation of RLECs and should be recoverable under any process designed to recover any other expense.
- The FCC should address the contribution base and ensure that all carriers operate under a level playing field.

### **Cost Recovery of Embedded Investments**

The Commission has proposed rules to limit or eliminate many sources of cost recovery for rural rate-of-return carriers. This proposal concerns ERTA members because low population densities, difficult terrains or climates, and diseconomies of scale make the network required to serve consumers expensive to deploy, maintain, and upgrade on a per customer basis. To meet their carrier of last resort (“COLR”) obligations, RLECs deploy networks to serve the entire community, not just the more populated towns where business cases predict a greater and more certain return on investment. Support from the Universal Service Fund makes construction of these networks possible.

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<sup>3</sup> Universal Service Monitoring Report CC Docket No. 98-202 2010, Prepared by Federal and State Staff for the Federal-State Joint Board on Universal Service in CC Docket No 96-45 at page 3-1.

RLECs have made these expensive network investments out of good faith and with the expectation that there would be a reasonable opportunity to recover the higher costs to serve consumers in rural areas, the consumers that deserve similar services as consumers in suburban and urban areas. Undoing that expectation will place these companies in significant financial hardship—bringing debt repayment and the opportunity to recover costs of existing investments in doubt—and will threaten the ability of consumers in these markets to receive the reliable communications services they receive today.

### **Local Switching Support**

Local Switching Support (“LSS”) should neither be eliminated nor combined with the high-cost loop support program. The Commission created LSS to provide support for companies serving smaller communities in rural America where economies of scale were not easy to obtain. Due to some technological changes, economies of scale in some respects may have improved, but many expenses such as software upgrades, technician labor and training,<sup>4</sup> as well as power and building requirements continue to correlate to the number of switches rather than to the number of lines served.

The FCC cites network evolution as a reason to eliminate LSS, where in reality, the modifications proposed could slow or stop that evolution. Changes to LSS could eliminate funding required to help companies make the decision to invest additional capital and to incur additional training expense to transition to a soft switch environment. Circuit switches traditionally had depreciation lives in the 10-15 year range. New soft switches are based on software and contain a number of advanced features compared to circuit switches. Their existence in and of itself means that they will always be improving. As this technology improves, companies will have pressure to replace and/or upgrade soft switches more frequently to ensure that support from the manufacturer continues to be provided for those soft switches. Indeed, we expect to see a replacement pattern more closely resembling computer equipment with lives in the 3-5 year range.

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<sup>4</sup> Members have reported increased training expense to transition the existing labor force from maintaining circuit switching to soft switching equipment.

Despite the projected shorter depreciation lives and increased training and labor expense, ERTA does agree with the presumption that soft switch advances will ultimately reduce switching costs even though they will not eliminate the cost differential associated with serving rural communities without meaningful economies of scale. Since actual costs drive LSS payments, any reduction in expenses will automatically reduce LSS without requiring any change to current rules.<sup>5</sup> In this instance, ERTA believes that technological advances will accomplish the NPRM's stated goal of reducing LSS without any change to the current rules.

### **Recovery of Corporate Operations Expense**

Corporate operations are integral to a company being able to offer services to consumers. Without the functions included in corporate operations, companies would not be able to hire and train employees, bill customers, pay employees, pay taxes, pay vendors, make investment or pricing decisions, comply with rules established by governmental entities like the Commission, Federal Trade Commission, and state commissions, or borrow capital needed to upgrade networks. Cost recovery support for corporate operations expense should not be further reduced or eliminated arbitrarily. To illustrate this point, the Commission need look no further than its own budget. Funding that this Commission receives from regulatory fees and Congress does not exclude corporate operations or "overhead" expenses because it could not operate efficiently in that manner. Eliminating corporate operations expense support funding would be a disservice to consumers that would be suddenly forced to pay more for voice and broadband services simply because they live in rural America and not in a more urban area like Washington DC.

It does not seem appropriate for the Commission to be an advocate for small business consolidation and the loss of more jobs in rural America.<sup>6</sup> ERTA members are proud of the services they provide and the ways they support rural America. ERTA members are literally neighbors helping neighbors.

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<sup>5</sup> This reduction should address any efficiency created by affiliated companies in different study areas.

<sup>6</sup> NPRM at para. 217.

## **Contribution Base**

While not directly addressed in this NPRM, it is important to recognize the need to expand the contribution base of contributors. The current contribution base is shrinking and the NPRM does nothing to address the most pressing problem within the USF program. The current system also continues to have a significant inequity in its application of funding obligations on broadband internet access provided by RLECs. Digital Subscriber Line (“DSL”) revenues reported on the Commission’s Form 499 reports by RLECs are assessed the USF contribution charge because these carriers offer DSL on a common carrier basis where price cap carriers and cable companies offering high speed internet access on a non-common carrier basis have no such funding obligation. ERTA members only want a level playing field and request that similar services using the same or similar technology be treated with consistent rules. With a leveling the playing field, the contributions received will increase and the burden on customers will be reduced.

## **Conclusion**

ERTA members are small businesses in high cost areas ignored and overlooked by larger profit only based corporations. Without ERTA members, many parts of rural America would not have access to either voice or broadband service. ERTA members provide much needed jobs in their communities, and are among the largest employers in the areas they serve. It is important that the Commission’s reforms not cause the loss of jobs or result in a decrease in the availability of broadband in rural America. It is important for these small businesses to be able to recover the costs of embedded investments and cover the costs of corporate operations in order to continue serving these high cost areas.

Respectfully submitted,

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